

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ERIC DANE MITCHELL,

Plaintiff,

v.

SHAWNEE MEDICAL STAFF and CAROLE AGUILAR,

Defendants.

ERIC DANE MITCHELL,

Plaintiff,

v.

WEXFORD CORPORATION, CARROL AGULIER, ALFONSO DAVID, and R. BAINAIVERE,

Defendants.

Case No. 18-cv-566-JPG-RJD

consolidated with

Case No. 18-cv-1026-JPG-RJD

MEMORANDUM AND ORDER

This matter comes before the Court for case management purposes. On April 25, 2019, Magistrate Judge Reona J. Daly noted that the allegations against defendant Carole Aguilar (also spelled Carrol Agulier) that form the basis of *Mitchell v. Wexford Corporation*, No. 18-cv-1026-JPG-RJD, are substantially related to the allegations against her in the lead case, *Mitchell v. Shawnee Medical Staff*, No. 18-cv-566-JPG-RJD. Magistrate Judge Daly ordered plaintiff Eric Dane Mitchell to show cause why the consolidated case against Aguilar, No. 18-cv-1026-JPG-RJD, should not be dismissed as duplicative of the claim in the lead case. Mitchell has not responded to the order to show cause.

The Court has further reviewed the claims against Aguilar in the two cases and finds they

arise out of the same set of facts and assert the same legal wrong. They are, in fact, duplicate claims. The Court may dismiss a complaint if it duplicates another federal case involving substantially the same claims, parties and available relief. *McReynolds v. Merrill Lynch & Co., Inc.*, 694 F.3d 873, 888-89 (7th Cir. 2012). As that is the case here, the Court **DISMISSES without prejudice** the claims against Aguilar in one of the cases. However, the Court chooses to dismiss the claims against her in the lead case, *Mitchell v. Shawnee Medical Staff*, No. 18-cv-566-JPG-RJD, where she is the only remaining defendant, and to keep the identical claim against her in *Mitchell v. Wexford Corporation*, No. 18-cv-1026-JPG-RJD, where she is joined with codefendants involved in the same alleged wrong.

In light of the fact that the claim against Aguilar was the only remaining claim in *Mitchell v. Shawnee Medical Staff*, No. 18-cv-566-JPG-RJD, the Court **ORDERS** that the cases are no longer consolidated and **DIRECTS** the Court to enter judgment of dismissal without prejudice of the claim against Aguilar in *Mitchell v. Shawnee Medical Staff*, No. 18-cv-566-JPG-RJD, only. The Court further **DIRECTS** the Clerk of Court (1) to file this order on the dockets of both cases, (2) to update the docket sheet in both cases to reflect the address most recently provided by Mitchell in either case and (3) to refile in the continuing case the motions pending in the terminated case (Docs. 47 & 49) using their original filing dates. All future filings shall be only in *Mitchell v. Wexford Corporation*, No. 18-cv-1026-JPG-RJD. The parties may use in the continuing case all discovery conducted in *Mitchell v. Shawnee Medical Staff*, No. 18-cv-566-JPG-RJD. Magistrate Judge Daly will enter a scheduling and discovery order in the continuing case.

IT IS SO ORDERED.
DATED: July 2, 2019

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE